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ASHFORD & WRISTON
A Limited Liability Law Partnership, LLP

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Attorneys for Creditors
DAVID AND SHARLENE FURUTO

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII

In re)	CASE NO. 09-01737
)	(Chapter 7)
SOSIPETA HIKILA,)	
)	
Debtor.)	
<hr/>		
DAVID AND SHARLENE FURUTO,)	ADV. PROC. NO. _____
)	
Plaintiffs)	
)	
v.)	COMPLAINT TO DETERMINE
)	DISCHARGEABILITY OF DEBT
SOSIPETA HIKILA,)	UNDER § 523(A)(6); EXHIBITS "A"
)	- "B"
)	
Defendant)	
)	
<hr/>		

**COMPLAINT TO DETERMINE DISCHARGEABILITY
OF DEBT UNDER § 523(A)(6)**

PLAINTIFFS DAVID AND SHARLENE FURUTO (“Plaintiffs”), by and through their attorneys undersigned, for a complaint against SOSIPETA HIKILA, the Debtor in this case (“Defendant”), state and allege as follows:

1. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 151, 28 U.S.C. § 157, and 28 U.S.C. § 1334(b). The proceeding is brought pursuant to 11 U.S.C. § 523, and Rules 4004(d) and 7001 of the Federal Rules of Bankruptcy Procedure.

2. This bankruptcy case was commenced through a voluntary petition filed by Defendant on July 31, 2009.

3. Plaintiffs are creditors of Defendant.

4. This is a “core” proceeding under 28 U.S.C. § 157(b)(2)(I).

5. Plaintiffs rented to Defendant that certain real property located at 55-550 Moana Street, Laie, Hawaii 96762 (the “Property”) commencing on September 1, 1985.

6. On December 22, 2006, Plaintiffs filed a Complaint (Assumpsit, Summary Possession/Landlord-Tenant, Damages) against Defendant in the State of Hawaii District Court of the First Circuit, Ko‘olauloa Division relating to Defendant’s tenancy on the Property.

7. A true and correct certified copy of the Complaint is attached as Exhibit "A."

8. On February 2, 2007, a Writ of Possession and a Judgment for Possession were issued in Plaintiffs' favor against Defendant.

9. Defendant caused extensive damage to Plaintiffs' Property.

10. Defendant intended to inflict injury upon Plaintiffs' Property.

11. Defendant believed that it was substantially certain that injury to Plaintiffs' Property would occur as a result of Defendant's conduct.

12. Defendant's conduct was both willful and malicious.

13. As a result of the damage to Plaintiffs' Property, on May 1, 2007, a Judgment in favor of Plaintiffs and against Defendant was issued in the amount of \$73,816.31.

14. A true and correct certified copy of the Judgment is attached as Exhibit "B."

15. The damage caused to Plaintiffs' Property is a debt that is excepted from discharge because it was caused by Defendant's willful and malicious conduct.

/

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/

WHEREFORE, the Plaintiffs pray that the debt owed by Defendant to Plaintiffs be determined to be an exception to discharge and that Plaintiff have such other and further relief, including the award of reasonable attorneys' fees, as is just.

DATED: Honolulu, Hawaii; October 22, 2009.

A handwritten signature in black ink, appearing to read "Cuyler Shaw", is written above a horizontal line.

CUYLER SHAW
MIRANDA TSAI
Attorneys for Creditors
DAVID AND SHARLENE FURUTO

**COMPLAINT (ASSUMPSIT, SUMMA POSSESSION/
LANDLORD-TENANT, DAMAGES);
DECLARATION; EXHIBIT(S); SUMMONS**

TWO-SIDED FORM
Form #1DC08

FILED
DISTRICT COURT OF
THE FIRST CIRCUIT

2006 DEC 22 P 2:52

LEGAL DOCUMENTS

CLERK S. KAI-FISHER

Reserved for Court Use

Civil No.

1RC06 1 07025

Plaintiff(s)/Plaintiff(s)' Attorney (Name, Attorney Number, Firm
Name (if applicable), Address, Telephone and Facsimile Numbers)

David M. Furuto,
P. O. Box 84
Laie, Hawaii 96762
Telephone: 808-293-7788
Telephone: 808-293-3814

**IN THE DISTRICT COURT OF THE FIRST CIRCUIT
KO'OLAULOA DIVISION
STATE OF HAWAI'I**

Plaintiff(s)

David M. Furuto

Defendant(s)

Sosipeta (Siosipeta) Hikila

Street Address, City, State ("the property"):

55-550 Moana Street
Laie, Hawaii 96762

COMPLAINT

1. This Court has jurisdiction over this matter and venue is proper.
2. Plaintiff(s) is the landlord or the agent for the landlord of the property.
3. The property is located in this division of this Court.
4. Defendant(s) rents and/or is in possession of the property and/or is a personal guarantor under the rental agreement of the property.
5. ☐ There is a written rental agreement for the property. A copy of the written rental agreement for the property (and any amendments to the rental agreement) is attached as Exhibit 1.
☒ There is no written rental agreement for the property, only an oral agreement.
☐ There is an expired written rental agreement for the property. An accurate copy of the written rental agreement is attached as Exhibit 1. Defendant(s) are month-to-month tenant(s).
6. Defendant(s) has broken the rental agreement because:
☒ Unpaid rent \$ \$4,200 with \$2,100 for November 2006, and \$2,100 for December 2006 plus Damages
☐ Other: _____
7. Written notice was given to Defendant(s) on November 24, 2006 to correct this situation. An accurate copy of the written notice is attached as Exhibit 2.
8. Despite the notice, Defendant(s) has failed to correct this situation and still is in possession of the property.

(continued on reverse side)

COMPASP.2X (Amended 4/18/97)v

SEE REVERSE SIDE

I certify that this is a full, true, and correct
copy of the original on file in this office.

OCT -7 2009

Clerk, District Court of the above Circuit, State of Hawai'i

EXHIBIT "A"

COMPLAINT (continued)

9. As of December 07, 2006, Defendant(s) owed

Plaintiff(s) \$ \$4,200 with \$2,100 for November 2006, and \$2,100 for December 2006 plus Damages for:

☒ Rent itemized as follows: \$4,200 with \$2,100 for November 2006, and \$2,100 for December 2006

☒ Other: Delinquent Penalties, Damages, and Interest

Plaintiff(s) is asking the Court for the following:

A. A judgment giving Plaintiff(s) possession of the property.

B. A Writ of Possession directing the Sheriff or Police Officer to:

1. Remove Defendant(s) from the property and all persons possessing the property through Defendant(s);
2. Remove from the property all personal belongings of Defendant(s) and of any other person; and
3. Put Plaintiff(s) in possession of the property.

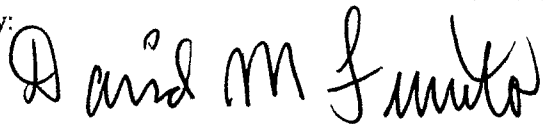
C. Judgment against Defendant(s) for \$ 4,200 and Damages

In addition, the Court may award any rent and other charges owed under the rental agreement, additional damages, court costs, interest, and reasonable attorney's fees.

Date: December 22, 2006

Signature of Plaintiff(s)/Plaintiff(s)' Attorney:

Print/Type Name: David M. Furuto



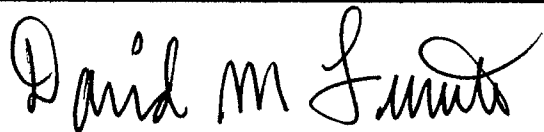
DECLARATION

I have read this Complaint, know the contents and verify that the statements are true to my personal knowledge and belief. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF HAWAI'I THAT THE ABOVE IS TRUE AND CORRECT.**

Date: December 22, 2006

Signature of Declarant:

Print/Type Name: David M. Furuto



In accordance with the **Americans with Disabilities Act** if you require an accommodation for your disability, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, or TTY 539-4853 at least ten (10) working days in advance of your hearing or appointment date. For Civil related matters, please call 538-5151.

David M. Furuto,
P. O. Box 84
Laie, Hawaii 96762
Telephone: 808-293-7788

November 24, 2006

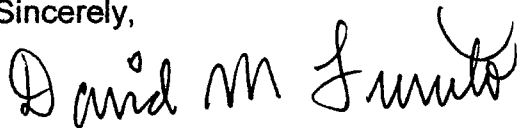
Sosipeta Hikila
55-550 Moana Street
Laie, Hawaii 96762

Dear Sosipeta Hikila:

Since you have not paid your monthly rent of \$2,100 for November 2006 for 55-550 Moana Street, even though it was due on November 01, 2006 and since you have ignored our request to pay, then if your monthly rent of \$2,100 for November 2006 is not made within five business days after the date of this notice or by November 30, 2006, then we can then sue you; (a) to gain possession of the Unit at once; and (b) to collect the rent due. If we employ an attorney or someone else to collect unpaid debts of the tenant related to the rental unit, you must pay: (a) reasonable attorney's fees of not more than the unpaid rent; (b) the reasonable costs to collect; plus (c) court costs and interest that we may be entitled to. If you do not obey other terms of this Agreement, we may also employ an attorney to enforce them and you must also pay for: (1) reasonable costs and attorney fees; plus (2) any court costs and interest on funds owed that we may be entitled to.

If you have any questions, then please contact us immediately.

Sincerely,

A handwritten signature in black ink that reads "David M. Furuto". The signature is written in a cursive, flowing style.

David M. Furuto,

SUMMONS**IN THE DISTRICT COURT OF THE FIRST CIRCUIT
KO'OLAULOA DIVISION
STATE OF HAWAI'I**

Plaintiff(s)

David M. Furuto

Reserved for Court Use

Civil No.

Defendant(s)

Sosipeta (Siosipeta) Hikila

Filing Party/Attorney Name, Attorney Number (if applicable),
Address, Telephone and Fax NumbersDavid M. Furuto,
P. O. Box 84
Laie, Hawaii 96762
Telephone: 808-293-7788
Telephone: 808-293-3814**SUMMONS****THE STATE OF HAWAI'I:****TO:** The Director of Public Safety of the State of Hawai'i, his/her deputy or any police officer or other person authorized by the laws of the State of Hawai'i:

You are commanded to summon the Defendant(s) to appear before the District Judge of this Court in his/her Courtroom, to appear at the Court designated by the checked box on the reverse side.

This Summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a Judge of the above-entitled Court permits, in writing on this Summons, personal delivery during those hours.

TO THE DEFENDANT(S):

You are required to appear before the District Judge of this Court, in his/her Courtroom, on the day and at the time designated by the checked box on page 2. If the Defendant(s) is a corporation, Hawai'i law requires it to be represented by an attorney licensed to practice in the State of Hawai'i.

IF YOU OR YOUR ATTORNEY FAIL TO ATTEND THE COURT HEARING AT THE TIME AND PLACE DESIGNATED, DEFAULT AND DEFAULT JUDGMENT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

NOTICE TO ALL PARTIES (Honolulu Division only): If this case involves a residential lease and if the Defendant(s) disagrees with the statements in the Complaint, the Court may require the parties to submit their dispute to mediation at the Pre-Trial conference that will be scheduled on the Monday, not a holiday, following the court date specified above. If the Monday following your court date is a holiday, the Pre-Trial conference will occur on the next business day. If the parties are not able to resolve the dispute within 20 minutes of mediation, the Court will set a trial date.

Date:

DEC 22 2006

Clerk of the above-entitled Court

CONTINUED TO PAGE 2

COURT ADDRESSES AND RETURNABLE DAYS:

☐ Honolulu Division, 1111 Alakea Street, 10th floor Courtroom 10A or 10B, Honolulu, Hawai'i

- ☐ at 8:30 a.m. on _____, 200__ for summary possession.
or
☐ at 8:30 a.m. on the fifth day following date of service, excluding Saturdays, Sundays and legal holidays for summary possession.
or
☐ at 1:30 p.m. on the second Monday following date of service, and should that Monday be a legal holiday then upon the next business day.

☐ 'Ewa Division, 870 Fourth Street, Pearl City, Hawai'i

- ☐ at 8:30 a.m. on Friday, _____, 200__ for summary possession.
or
☐ at 8:30 a.m. on the second Friday following date of service, and should that Friday be a legal holiday then upon the next Friday.

☒ Ko'olaupoko OR Ko'olaupoko Division, 45-939 Po'okela Street, Kane'ohe, Hawai'i

- ☒ at 8:30 a.m. on Wednesday, Jan. 10, 2007 for summary possession.
or
☐ at 8:30 a.m. on the second Wednesday following date of service, and should that Wednesday be a legal holiday then upon the next Wednesday.

☐ Wahiawa OR Waialua Division, 1034 Kilani Avenue, Wahiawa, Hawai'i

- ☐ at 9:00 a.m. Wednesday, _____, 200__ for summary possession.
or
☐ at 9:00 a.m. on the second Wednesday following date of service, and should that Wednesday be a legal holiday then upon the next Wednesday.

☐ Wai'anae Division, 87-1784 Farrington Highway, Nanakuli, Hawai'i

- ☐ at 9:00 a.m. Tuesday, _____, 200__ for summary possession.
or
☐ at 9:00 a.m. on the second Tuesday following date of service, and should that Tuesday be a legal holiday then upon the next Tuesday.

Mailing address for the Courts: 1111 Alakea Street, Civil Division, Third (3rd) floor, Honolulu, Hawai'i 96813

In accordance with state and federal disability laws, if you require an accommodation for a disability, when working with a court program, service, or activity, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, or TTY 539-4853 at least ten (10) working days before your proceeding, hearing, or appointment date.

For Civil related matters, please call 538-5151 or visit the District Court Service Center at 1111 Alakea Street, Third (3rd) Floor.

JUDGMENT

IN THE DISTRICT COURT OF THE FIRST CIRCUIT KO'OLAULOLO DIVISION STATE OF HAWAII
Plaintiff(s) David M. Furuto
Defendant(s) Sosipeta (Siosipeta) Hikila

FILED DISTRICT COURT OF THE FIRST CIRCUIT 2007 MAY -1 A 11: 52 Reserved for Court Use <i>[Signature]</i>
Civil No. IRC 06-1-7025
Filing Party/Attorney Name, Attorney Number (if applicable), Address, Telephone and Fax Numbers David M. Furuto P.O. Box 84 Laie, Hawaii 96762 Telephone: 808-293-7788 808-293-3814

JUDGMENT	
JUDGMENT is entered in favor of <input checked="" type="checkbox"/> Plaintiff David M. Furuto	or <input type="checkbox"/> Defendant _____, based on the following (check one):
<input type="checkbox"/> Confession <input checked="" type="checkbox"/> Trial <input type="checkbox"/> Stipulation	
<input type="checkbox"/> Default: The Defendant having failed to plead or otherwise defend and a default having been entered upon proof that Defendant is indebted to Plaintiff.	
<input type="checkbox"/> Other (Specify: _____)	
<input type="checkbox"/> DISMISSED AS TO (LIST DEFENDANTS): _____	

JUDGMENT	<table style="width: 100%;"> <tr> <td style="width: 80%;">Principal Amount.....</td> <td style="width: 20%;">\$ 73,635.31</td> </tr> <tr> <td>Interest.....</td> <td>\$ _____</td> </tr> <tr> <td>Attorney's Fees.....</td> <td>\$ _____</td> </tr> <tr> <td>Filing Fees.....</td> <td>\$ 130.00</td> </tr> <tr> <td>Service Fees.....</td> <td>\$ 25.00</td> </tr> <tr> <td>Mileage for Service.....</td> <td>\$ 26.00</td> </tr> <tr> <td>Other Costs.....</td> <td>\$ _____</td> </tr> <tr> <td colspan="2" style="padding-top: 10px;"> TOTAL JUDGMENT AMOUNT..... </td> </tr> </table>	Principal Amount.....	\$ 73,635.31	Interest.....	\$ _____	Attorney's Fees.....	\$ _____	Filing Fees.....	\$ 130.00	Service Fees.....	\$ 25.00	Mileage for Service.....	\$ 26.00	Other Costs.....	\$ _____	TOTAL JUDGMENT AMOUNT.....	
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Mileage for Service.....	\$ 26.00																
Other Costs.....	\$ _____																
TOTAL JUDGMENT AMOUNT.....																	
<input type="checkbox"/> Clerk <input checked="" type="checkbox"/> Judge <i>[Signature]</i>																	

I certify that this is a full, true and correct copy of the original on file in this office. <i>[Signature]</i> OCT - 7 2009 Clerk, District Court of the above Circuit, State of Hawai'i
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